

§9.5

publish in the FEDERAL REGISTER within 30 days after the final date for receipt of comments, or as soon as practicable thereafter, a notice either:

(1) Giving the complete text of a final Specification, including conditions of use, and stating that any manufacturer of appliances or equipment in the class concerned desiring voluntarily to use the Label and Energy Conservation Mark with such appliances or equipment must advise the Department of Commerce; or

(2) Stating that the proposed Specification will be further developed before final publication; or

(3) Withdrawing the proposed Specification from further consideration.

§9.5 Participation of manufacturers.

(a) Manufacturers desiring to participate in this program will so notify the Department of Commerce. The notification will identify the particular Specification to be used and the manufacturer's model numbers for the products to be labeled. The notification will also state that the manufacturer will abide by all conditions contained in the Specification and will desist from using the Label and Energy Conservation Mark if requested by the Department of Commerce under the provisions of §9.6.

(b) The conditions for participation will be set out in the Specification and will include, but not be limited to, the following:

(1) Prior to the use of a Label the manufacturer will make or have made the measurements to obtain the information required for inclusion on the Label and, if requested, will forward within 30 days such measurement data to the Department of Commerce. Such measurement data will be kept on file by the manufacturer or his agent for two years after that model of appliance or equipment is no longer manufactured unless otherwise provided in the Specification. The use of independent test laboratories or national certification programs available to any manufacturer is acceptable for the purposes of this program.

(2) The manufacturer will describe the test results on the Label as prescribed in the Specification.

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(3) The manufacturer will display or arrange to display, in accordance with the appropriate Specification, the Label on or with each individual unit of appliance or equipment within the subject class and with the same brand name manufactured by him except for units exported from the United States. All models with the same brand name that fall within the class must be included in the program unless they are for export only.

(4) The manufacturer agrees at his expense to comply with any reasonable request of the Department of Commerce to have appliances or equipment manufactured by him tested to determine that testing has been done according to the relevant Specification.

(5) Manufacturers may reproduce the Department of Commerce Labels and Energy Conservation Mark in advertising provided that the entire Label, complete with all information required to be displayed at the point of retail sale, is shown legibly.

§9.6 Termination of participation.

(a) The Department of Commerce upon finding that a manufacturer is not complying with the conditions of participation set out in these procedures or in a Specification may terminate upon 30 days notice the manufacturer's participation in the program: *Provided*, That the manufacturer shall first be given an opportunity to show cause why the participation should not be terminated. Upon receipt of a notice of termination, a manufacturer may request within 30 days a hearing under the provisions of 5 U.S.C. 558.

(b) A manufacturer may at any time terminate his participation and responsibilities under this program with regard to a specific class of products by giving written notice to the Secretary that he has discontinued use of the Label and Energy Conservation Mark for all appliances or equipment within that class.

§9.7 Department of Commerce energy conservation mark.

The Department of Commerce shall develop an Energy Conservation Mark which shall be registered in the U.S. Patent Office under 15 U.S.C. 1054 for